

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
AUSTIN DIVISION

Shiyan Jiang,

*Plaintiff,*

v.

Texas Commission on Environmental  
Quality; and Kim Wilson, individually  
and in her capacities as Director of  
Water Availability,

*Defendants.*

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CIVIL ACTION NO. 1:17-cv-739

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**INDEX OF DOCUMENTS FILED**

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The following documents from the state court action are attached for filing in this case.

1. Plaintiff's Original Petition and Request for Disclosures
2. Return of Service – Texas Commission on Environmental Quality
3. Return of Service – Kim Wilson
4. Defendants' Original Answer
5. Defendants' State Court Notice of Removal
6. Docket Sheet–Travis County District Court

Respectfully submitted.

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

BRANTLEY STARR  
Deputy First Assistant Attorney General

JAMES E. DAVIS  
Deputy Attorney General for Civil Litigation

ANGELA V. COLMENERO  
General Litigation Division, Division Chief

/s/ Michael R. Abrams

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Austin, Texas 78711-2548  
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*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document has been served through the Court's electronic filing system on August 8, 2017:

Colin Walsh  
Robert J. Wiley  
ROB WILEY, PC  
1011 San Jacinto Blvd, Ste 401  
Austin TX 78701  
[cwalsh@robwiley.com](mailto:cwalsh@robwiley.com)

/s/ Michael R. Abrams

MICHAEL R. ABRAMS  
Assistant Attorney General

**1.**

C I T A T I O N  
THE STATE OF TEXAS  
CAUSE NO. D-1-GN-17-003108

DELIVERED: 7/13/17  
by: gc  
Assured Civil Process Agency

SHYYAN JIANG,

, Plaintiff

vs.

TEXAS COMMISSION ON ENVIROMENTAL QUALITY AND KIM WILSON INDIVIDUALLY AND IN HER  
CAPACITIES AS DIRECTOR OF WATER AVAILABILITY

, Defendant

TO: KIM WILSON, DIRECTOR OF WATER AVAILABILITY  
PO BOX 13087  
AUSTIN, TEXAS 78711

Defendant, in the above styled and numbered cause:

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE of the PLAINTIFF in the above styled and numbered cause, which was filed on JULY 7, 2017 in the 250TH JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, July 11, 2017.

REQUESTED BY:  
ROBERT JOSEPH WILEY  
1011 SAN JACINTO BLVD STE 401  
AUSTIN TX 78701  
BUSINESS PHONE: (512) 271-5527



Velva L. Price  
Travis County District Clerk  
Travis County Courthouse  
1000 Guadalupe, P.O. Box 679003 (78767)  
Austin, TX 78701

PREPARED BY: VICTORIA BENAVIDES

--- R E T U R N ---

Came to hand on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_ M., and  
executed at \_\_\_\_\_ within the County of \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_ M.,  
by delivering to the within named \_\_\_\_\_, each  
in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION AND REQUEST  
FOR DISCLOSURE accompanying pleading, having first attached such copy of such citation to such  
copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ \_\_\_\_\_

Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this the

By: \_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

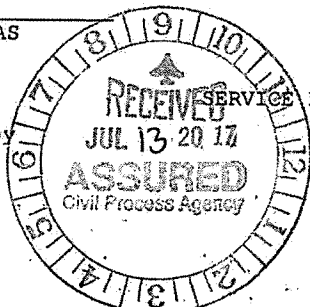
Printed Name of Server \_\_\_\_\_

Notary Public, THE STATE OF TEXAS

D-1-GN-17-003108

☒ Original

☐ Service Copy



SERVICE FEE NOT PAID

P01 - 000053378

\_\_\_\_ County, Texas

**D-1-GN-17-003108**

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4. Defendant Kim Wilson is the Director of Water Availability, is being sued in her official and individual capacity. Ms. Wilson may be served at P.O. Box 13087, Austin, Texas 78711

### III JURISDICTION AND VENUE

5. Jurisdiction is appropriate because TCEQ is a state agency and the acts giving rise to this petition occurred in the State of Texas.
6. Venue is appropriate because the acts giving rise to this lawsuit occurred within Travis County, Texas and because TCEQ is headquarter in Travis County.

### IV FACTS

7. Mr. Shiyan Jiang first began working at TCEQ on July 19, 1993.
8. For the duration of his employment, Mr. Jiang always gave his best efforts.
9. Mr. Jiang always received satisfactory performance reviews or better.
10. In 2008, Mr. Jiang first went outside his chain of command and complained as a citizen that the way water availability criteria in the administrative code (30TAC 297.42c) was being applied defrauded the public.
11. After this complaint, Mr. Jiang's job stagnated because TCEQ refused to promote him.
12. In 2012, Mr. Jiang went outside of his job functions and brought his complaints as a citizen to Commissioner Contreras concerning the water availability criteria and defrauding the public.
13. In March 2013, Mr. Jiang set a meeting with the Water Office to discuss the Water Diversion Criteria and management issues. The Water Office refused to discuss the Water Diversion Criteria with him.

14. In July 2013, Mr. Jiang attempted to bring his complaints as a citizen to Commissioner Chairman Shaw.
15. When the Division Director Rila Kellye found out, Mr. Jiang was instructed not to attempt to meet with the Commissioner. In fact, Mr. Jiang was told that failure to cease communications with the Commissioner would be insubordination.
16. Mr. Jiang was forbidden from talking to the Commissioner because of his speech regarding how TCEQ was defrauding the public.
17. No other employees were forbidden from contacting the Commissioners. Indeed, the Commissioners encouraged employees to contact them with concerns. For example, Commissioner Toby Baker sent email to all TCEQ employs to welcome them to make appointments to meet him. Shiyan did request an appointment, but never got response.
18. In November 2014, Mr. Jiang filed a complaint with the HR office at TCEQ.
19. Mr. Jiang alleged that a TCEQ employee was unlawfully attempting to destroy public records on October 27, 2014.
20. Mr. Jiang also alleged that he was being discriminated against because of his age and race.
21. Mr. Jiang is 72 years old. He is one of the oldest employees in the water availability division.
22. Mr. Jiang is from China and speaks with a heavy accent.
23. Mr. Jiang is the only Chinese person working as a Hydrologist III. Mr. Jiang worked as a Hydrologist III for nearly 20 years. Younger, white employees were promoted to Hydrologist IV, V, and VI quickly.

24. After 8 months of investigation, TCEQ was unable to determine whether a violation had occurred and dismissed all of his complaints in July 2015. However, TCEQ never investigated which working files were thrown into the trash.)
25. In July 2015, Kim Wilson became the Division Director for Mr. Jiang's division within TCEQ.
26. Ms. Wilson was present in the meeting with Mr. Jiang when his complaints were rejected.
27. At around the same time, Ms. Lori Hamilton became the section manager of Mr. Jiang.
28. Since Ms. Wilson and Ms. Hamilton became Mr. Jiang's supervisors, Mr. Jiang has been subjected to increased discrimination and retaliation because of his speech, race, national origin, and age.
29. For example, in August 2015, Mr. Jiang asked for clarification on what he needed to do for the Enterprise project.
30. His supervisor did not provide answer until November 9, 2015, when she disciplined him for asking the question in the first place.
31. However, before that in October 2015, Mr. Jiang was directed not to complain about policies, even if he believed they defrauded the public.
32. On November 9, Ms. Wilson gave Mr. Jiang two choices: finish the Enterprise project or be taken off it.
33. Younger, non-Chinese employees were not disciplined for asking questions about work expectations or given ultimatums.
34. Mr. Jiang elected to complete the Enterprise project on 11/9/2015 and successfully did so on the same day once he received the answer to the question he had.



35. Despite doing the project correctly, he was put on probation in December 2015.
36. Allegedly, Mr. Jiang was put on probation because of his work on the Enterprise project.
37. However, the real reason was because of his discrimination, retaliation, and free speech complaints.
38. Indeed, other younger, non-Chinese employees have not been put on probation after successfully completing their assignments.
39. Furthermore, one of the stated bases for the probation references Mr. Jiang's complaints to the commissioners three years earlier about policies defrauding the public.
40. On April 27, 2016, Mr. Jiang met with Ms. Hamilton. During that meeting he reiterated his complaint that TCEQ was not complying with the Administrative Code by failing to include certain models in its analysis.
41. Once again, Mr. Jiang, unlike younger, non-Chinese employees, was told to stop bringing up his complaints.
42. Based on these events, among other things, Mr. Jiang went to HR to file a second discrimination and retaliation complaint on April 28, 2016. At that time, Mr. Jiang spoke with and HR representative about his complaints against Ms. Wilson and TCEQ.
43. The very next day, April 29, 2016, Kim Wilson proposed that Mr. Jiang be terminated stating that he routinely "question[s] his supervisor's instructions . . . and continue[s] to reinitiate debate on long-standing policy decisions."
44. No other employee has been proposed for termination for these reasons.
45. Again, the real reason if Mr. Jiang's race, national origin, complaints of discrimination and protected speech

46. While Ms. Wilson attempts to characterize the topics Mr. Jiang discussed as “policy” determinations, in actuality, Mr. Jiang brought these topics up so often because they were violations of law that Mr. Jiang believed defrauded the public.
47. Specifically, MR. Jiang believed that certain policies and tasks violated, among other things, 30 TAC § 297 and 30 TAC § 298.
48. For example, in section 3 of Mr. Jiang’s rebuttal to his December 2015 Probation, he explicitly mentions to Kim Wilson that since 2008, 30 TAC § 297.42c has been misinterpreted and that the technical specialist has misled managers into violating Texas Water Code 5.103(c).
49. This violation of law occurred because the proper procedure for changing the interpretation of a rule was not followed.
50. According to the February 11, 2016 Probation Agenda Meeting, Mr. Jiang failed to comply with instructions of management because “Shiyan incorrectly alleged that not including cumulative impacts cheated the public . . . .”
51. On page 6 of his rebuttal to this meeting, Mr. Jiang clearly stated that failure to use cumulative impacts for simulations fraudulently covers up the fact that 30 TAC § 298’s criteria for environmental flow standards may not being met in future.
52. Furthermore, under 30 TAC § 297.46, a water rights application can only be granted if it “would not be detrimental to the public welfare.”
53. Obviously if something cheats the public it is detrimental to the public welfare.
54. Mr. Jiang told Ms. Wilson and Ms. Hamilton about these violations as a citizen.
55. As Ms. Wilson and Ms. Hamilton have repeatedly stated, it was not part of Mr. Jiang’s job duties to determine or report whether policies violated the law.

56. Unfortunately, instead of addressing Mr. Jiang's concerns, Ms. Wilson discharged him because of them.
57. Younger, non-Chinese employees have not proposed for termination and then terminated because they report violations of law or speak on matters of public concern.
58. On May 24, 2016, after less than a month of investigation and without reviewing Mr. Jiang's evidence or interviewing relevant witnesses, such as Mr. Jiang's co-workers, TCEQ again dismissed his discrimination, retaliation, and free speech complaints.
59. Within 10 minutes of the decision to dismiss his complaints, Ms. Wilson discharged Mr. Jiang.
60. Such a short period of time between protected activity and an adverse action, not only establishes that his complaints caused his discharge, but also raises an inference of discrimination and pretext.
61. Mr. Jiang appealed his discharge to the Executive Director Richard Hyde, alleging, among other things, that he was being discharged in violation of Title VII, the ADEA, and the Texas Labor Code. Mr. Jiang attached 15 exhibits to his letter of appeal.
62. Mr. Hyde adopted Ms. Wilson's termination decision
63. Specifically, TCEQ stated Mr. Jiang was terminated because he "offered no new or additional evidence with his appeal that not previously available to Ms. Wilson in making her decision."
64. In other words, Mr. Hyde's adoption confirms that Ms. Wilson knew of and relied on Mr. Jiang's complaints of discrimination and retaliation in making her decision to fire him.
65. Mr. Jiang was notified of his termination on June 27, 2016.
66. Mr. Jiang was replaced by a younger, non-Chinese employee.

- 67. Several other employees have complained about age discrimination and retaliation by Ms. Wilson.
- 68. Mr. Jiang filed a charge of discrimination on July 5, 2016.
- 69. The EEOC issued a right to sue on April 6, 2017.
- 70. Plaintiff has requested the right to sue from the Texas Workforce Commission.
- 71. All conditions present to the bringing of this suit have been satisfied or fulfilled.

V.

CAUSE OF ACTION: TITLE VII VIOLATIONS

- 72. Plaintiff incorporates paragraphs 1-71 as if restated herein.
- 73. Mr. Jiang was the only individual of Chinese ancestry that worked within his department.
- 74. Mr. Jiang also has a heavy accent when he speaks English.
- 75. He was subjected to treatment that none of his co-workers were subjected to.
- 76. He was ultimately terminated because of his race and national origin.
- 77. He was replaced by an employee outside his protected class.
- 78. As such, TCEQ violated Title VII.

VI.

CAUSE OF ACTION: TEXAS LABOR CODE VIOLATIONS

- 79. Plaintiff incorporates paragraphs 1-78 as if restated herein.
- 80. Mr. Jiang was the only individual of Chinese ancestry that worked within his department.
- 81. Mr. Jian also has a heavy accent when he speaks English.
- 82. Mr. Jiang is 72 years old, making him one of the oldest workers in TCEQ.
- 83. He was subjected to treatment that none of his co-workers were subjected to.
- 84. He was ultimately terminated because of his age, race and national origin.
- 85. He was replaced by a younger, non-chines employee.

86. As such, TCEQ violated the Texas Labor Code.

VII.  
CAUSE OF ACTION: TITLE VII RETALIATION

87. Plaintiff incorporates paragraphs 1-87 as if restated herein.
88. Plaintiff engaged in protected activity when he alleged that he was being treated differently based on his national origin and race.
89. As shown above, Mr. Jiang was repeatedly disciplined for his complaints and ultimately terminated because of them.
90. Defendants violated Title VII's anti-retaliation provision when it terminated Plaintiff for engaging in that activity.

VIII.  
CAUSE OF ACTION: TEXAS LABOR CODE RETALIATION

91. Plaintiff incorporates paragraphs 1-90 as if restated herein.
92. Plaintiff engaged in protected activity when he alleged that he was being treated differently based on his age, national origin, and race.
93. As shown above, Mr. Jiang was repeatedly disciplined for his complaints and ultimately terminated because of them.
94. Defendants violated the Texas Labor Code's anti-retaliation provision when it terminated Plaintiff for engaging in that activity.

IX.  
CAUSE OF ACTION: FEDERAL FREE SPEECH RETALIATION

95. Plaintiff incorporates paragraphs 1-94 as if restated herein.
96. As shown above, Plaintiff engaged in protected speech when he went outside of his chain of command and job duties and brought to light myriad issues that defrauded or cheated the public.

- 97. Ms. Wilson was motivated by Plaintiff's speech in their decision to terminate him.
- 98. Defendant Kim Wilson is liable in her official capacity under 42 U.S.C. §1983 because TCEQ adopted and promulgated the decision to terminate Mr. Jiang for engaging in protected speech.
- 99. Ms. Wilson violated the United States Constitution when it terminated Plaintiff.

X.

CAUSE OF ACTION: STATE FREE SPEECH RETALIATION

- 100. Plaintiff incorporates paragraphs 1-99 as if restated herein.
- 101. As shown above, Plaintiff engaged in protected speech when he went outside of his chain of command and job duties and brought to light myriad issues that defrauded or cheated the public.
- 102. Defendants were motivated by Plaintiff's speech in their decision to terminate him.
- 103. Defendants violated the Texas Constitution when it terminated Plaintiff.

XI.

CAUSE OF ACTION: VIOLATION OF SECTION 1981

- 104. Plaintiff incorporates paragraphs 1-82 as if restated herein.
- 105. Plaintiff was denied equal rights and benefits under 42 U.S.C. §1981 because of his race.
- 106. Ms. Wilson denied Plaintiff equal rights when, among other actions, they terminated Plaintiff because of his race.

XII.

JURY DEMAND

- 107. Plaintiff demands trial by jury and will tender the appropriate fee.

XIII.

REQUEST FOR DISCLOSURE

108. Defendants are requested to disclose, within 50 days of service of this request, the information and material described in Rule 194.2.

XIV.  
DAMAGES

109. Plaintiff seeks all damages allowed under the law, including monetary relief over \$200,000 but less than \$1,000,000 and:

(a) Plaintiff seeks an injunction prohibiting all Defendants from engaging in unlawful practices.

(b) Plaintiff seeks equitable relief against all Defendants as may be appropriate such as reinstatement, promotion, front pay, and court costs.

(c) Plaintiff seeks back pay under Title VII, the Texas Labor Code, and from the Individual Defendant in her individual capacity.

(d) Plaintiff seeks compensatory damages for future pecuniary losses, emotional pain, suffering, inconvenience, mental anguish, loss of enjoyment of life, and other nonpecuniary losses under Title VII, the Texas Labor Code, and from the Individual Defendant in her individual capacity.

(e) Plaintiff seeks punitive damages from the Individual Defendant in her individual capacity.

(d) Plaintiff seeks reasonable attorney's fees and costs including reasonable expert fees.

(e) Plaintiff seeks pre and post judgment interest at the maximum rate allowed by law.

WHEREFORE, premises considered, plaintiff respectfully prays that Defendant be cited to appear, and that upon a trial on the merits, that all relief requested be awarded to Plaintiff, and for such other and further relief to which the Plaintiff is justly entitled.

Respectfully submitted,

/s/ Colin Walsh

Robert J. Wiley\*

Texas Bar No. 24013750

Colin Walsh\*

Texas Bar No. 24079538

*\*Board Certified in Labor and Employment Law by the Texas  
Board of Legal Specialization*

ROB WILEY, P.C.

1011 San Jacinto Blvd, Ste 401

Austin, TX 78701

Telephone: (512) 271-5527

Facsimile: (512) 287 3084

cwalsh@robwiley.com

ATTORNEYS FOR PLAINTIFF



## CIVIL CASE INFORMATION SHEET

CAUSE NUMBER (FOR CLERK USE ONLY): \_\_\_\_\_ COURT (FOR CLERK USE ONLY): \_\_\_\_\_

STYLED Jiang v. TCEQ, et al

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

1. Contact information for person completing case information sheet:		Names of parties in case:		Person or entity completing sheet is:	
Name:	Email:	Plaintiff(s)/Petitioner(s):	<input checked="" type="checkbox"/> Attorney for Plaintiff/Petitioner <input type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other: _____		
Colin Walsh	cwalsh@robwiley.com	Shiyan Jiang			
Address:	Telephone:	Defendant(s)/Respondent(s):	Additional Parties in Child Support Case:		
1011 San Jacinto Blvd., Ste.	512-271-5527	TCEQ	Custodial Parent: _____		
City/State/Zip:	Fax:	Kim Wilson	Non-Custodial Parent: _____		
Austin, TX 78749	512-287-3084		Presumed Father: _____		
Signature:	State Bar No:	[Attach additional page as necessary to list all parties]			
	24079538				
2. Indicate case type, or identify the most important issue in the case (select only 1):					
Civil			Family Law		
Contract	Injury or Damage	Real Property	Marriage Relationship	Post-judgment Actions (non-Title IV-D)	
<input type="checkbox"/> Debt/Contract <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract: _____  <input type="checkbox"/> Foreclosure <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure <input type="checkbox"/> Franchise <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract: _____	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability: <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <input type="checkbox"/> Product Liability <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product: _____ <input type="checkbox"/> Other Injury or Damage: _____	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property: _____  <input type="checkbox"/> Related to Criminal Matters <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nisi <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other: _____	<input type="checkbox"/> Annulment <input type="checkbox"/> Declare Marriage Void <input type="checkbox"/> Divorce <input type="checkbox"/> With Children <input type="checkbox"/> No Children  <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other: _____	<input type="checkbox"/> Enforcement <input type="checkbox"/> Modification—Custody <input type="checkbox"/> Modification—Other  <input type="checkbox"/> Title IV-D <input type="checkbox"/> Enforcement/Modification <input type="checkbox"/> Paternity <input type="checkbox"/> Reciprocals (UIFSA) <input type="checkbox"/> Support Order  <input type="checkbox"/> Parent-Child Relationship <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent-Child: _____	
Employment	Other Civil				
<input checked="" type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment: _____	<input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property <input type="checkbox"/> Lawyer Discipline <input type="checkbox"/> Perpetuate Testimony <input type="checkbox"/> Securities/Stock <input type="checkbox"/> Tortious Interference <input type="checkbox"/> Other: _____				
Tax	Probate & Mental Health				
<input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other: _____		
3. Indicate procedure or remedy, if applicable (may select more than 1):					
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment		<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover	
4. Indicate damages sought (do not select if it is a family law case):					
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input checked="" type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000					

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Indemnización al trabajador, bancarrota o por incapacidad del Seguro Social)**

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under Chapter 952, Occupations Code. Certificate No. 9303**

**2.**

C I T A T I O N  
T H E   S T A T E   O F   T E X A S  
C A U S E   N O .   D - 1 - G N - 1 7 - 0 0 3 1 0 8

Filed in The District Court  
of Travis County, Texas

JUL 17 2017 NNR

SHYYAN JIANG,

vs.

TEXAS COMMISSION ON ENVIROMENTAL QUALITY AND KIM WILSON INDIVIDUALLY AND IN HER  
CAPACITIES AS DIRECTOR OF WATER AVAILABILITY

At 1:58 p M.  
Velva L. Price, District Clerk

, Defendant

TO: TEXAS COMMISSION ON ENVIROMENTAL QUALITY  
BY SERVING ITS ADMINISTRATIVE HEAD BRYAN SHAW  
PO BOX 13087  
AUSTIN TX 78711.

Defendant, in the above styled and numbered cause:

**YOU HAVE BEEN SUED.** You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

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ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, July 11, 2017.

REQUESTED BY:  
ROBERT JOSEPH WILEY  
1011 SAN JACINTO BLVD STE 401  
AUSTIN TX 78701  
BUSINESS PHONE: (512) 271-5527



Velva L. Price  
Velva L. Price  
Travis County District Clerk  
Travis County Courthouse  
1000 Guadalupe, P.O. Box 679003 (78767)  
Austin, TX 78701

PREPARED BY: VICTORIA BENAVIDES

R E T U R N

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and  
executed at \_\_\_\_\_ within the County of \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M.,  
by delivering to the within named \_\_\_\_\_, each  
in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION AND REQUEST  
FOR DISCLOSURE accompanying pleading, having first attached such copy of such citation to such  
copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ \_\_\_\_\_

Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this the

By: \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_

Printed Name of Server \_\_\_\_\_

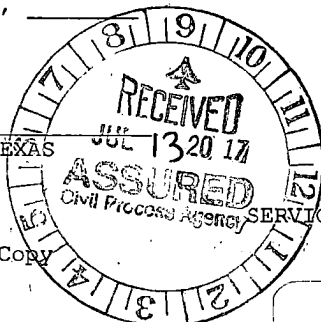
\_\_\_\_\_ County, Texas

Notary Public, THE STATE OF TEXAS

D-1-GN-17-003108

☒ Original

☐ Service Copy



SERVICE FEE NOT PAID

P01 - 000053377



005301176

IN THE 250TH JUDICIAL DISTRICT  
TRAVIS COUNTY, TEXAS

CAUSE NO: D-1-GN-17-003108

SHYYAN JIANG  
VS  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, ET AL

**RETURN**

Came to my hand: 7/13/2017, at 09:00 o'clock A.M., the following specified documents:

- Citation
- Plaintiff's Original Petition and Request for Disclosure
- Jury Demand
- Civil Case Information Sheet

and executed by me on 7-13-17, at 4:16 o'clock, pm, at  
13100 Park 35 circle, Austin, TX within the county of  
Travis, by delivering to TEXAS COMMISSION ON ENVIRONMENTAL  
QUALITY by delivering to BRYAN SHAW, Administration Head

☐ in person  
☒ by delivering to Grace Barr, test to Bryan Shaw a true  
copy of the above specified documents having first endorsed on such copy the  
date of delivery.

The above-named defendant/respondent indicated that he/she is not an active member of the armed forces of the  
United States of America

I am over the age of 18, not a party to nor interested in the outcome of the above numbered suit, and I  
declare under penalty of perjury that the foregoing is true and correct.

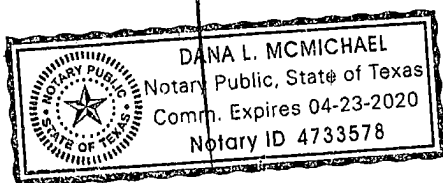
George Z. Castle  
Authorized Person: Kelly Land SCH5912  
Expiration Date: 10/31/2018  
ASSURED CIVIL PROCESS AGENCY  
5926 Balcones Dr. Ste. 290, Austin, TX 78731

STATE OF TEXAS }

**VERIFICATION**

Before me, a notary public, on this day personally appeared the above named Authorized person, known  
to me to be the person whose name is subscribed to the foregoing document and, being by me first duly  
sworn, declared that the statements and facts therein contained are within his/her personal knowledge  
and experience to be true and correct. Given under my hand and seal of office on this the 14th day of

July, 2017



Dana L. McMichael  
Notary Public

**3.**



Filed in The District Court  
of Travis County, TexasCITATION  
THE STATE OF TEXAS  
CAUSE NO. D-1-GN-17-003108

JUL 17 2017 NNR

At 1:58 p M.  
Velva L. Price, District Clerk  
, Plaintiff

SHYYAN JIANG,

vs.

TEXAS COMMISSION ON ENVIROMENTAL QUALITY AND KIM WILSON INDIVIDUALLY AND IN HER  
CAPACITIES AS DIRECTOR OF WATER AVAILABILITY

, Defendant

TO: KIM WILSON, DIRECTOR OF WATER AVAILABILITY  
PO BOX 13087.  
AUSTIN, TEXAS 78711

Defendant, in the above styled and numbered cause:

**YOU HAVE BEEN SUED.** You may employ an attorney. If you or your attorney do not file a written answer with the clerk who issued this citation by 10:00 A.M. on the Monday next following the expiration of twenty days after you were served this citation and petition, a default judgment may be taken against you.

Attached is a copy of the PLAINTIFF'S ORIGINAL PETITION AND REQUEST FOR DISCLOSURE of the PLAINTIFF in the above styled and numbered cause; which was filed on JULY 7, 2017 in the 250TH JUDICIAL DISTRICT COURT of Travis County, Austin, Texas.

ISSUED AND GIVEN UNDER MY HAND AND SEAL of said Court at office, July 11, 2017.REQUESTED BY:  
ROBERT JOSEPH WILEY  
1011 SAN JACINTO BLVD STE 401  
AUSTIN TX 78701  
BUSINESS PHONE: (512) 271-5527

*Velva L. Price*  
Velva L. Price  
Travis County District Clerk  
Travis County Courthouse  
1000 Guadalupe, P.O. Box 679003 (78767)  
Austin, TX 78701

PREPARED BY: VICTORIA BENAVIDES

## RETURN

Came to hand on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ at \_\_\_\_\_ o'clock \_\_\_\_\_ M., and  
executed at \_\_\_\_\_ within the County of \_\_\_\_\_  
\_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_ M.,  
by delivering to the within named \_\_\_\_\_, each  
in person, a true copy of this citation together with the PLAINTIFF'S ORIGINAL PETITION AND REQUEST  
FOR DISCLOSURE accompanying pleading, having first attached such copy of such citation to such  
copy of pleading and endorsed on such copy of citation the date of delivery.

Service Fee: \$ \_\_\_\_\_

\_\_\_\_\_  
Sheriff / Constable / Authorized Person

Sworn to and subscribed before me this the \_\_\_\_\_

By: \_\_\_\_\_

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Printed Name of Server

Notary Public, THE STATE OF TEXAS

D-1-GN-17-003108

☒ Original☐ Service Copy

SERVICE FEE NOT PAID

P01 - 000053378



005301170

CAUSE NO: D-1-GN-17-003108

SHYYAN JIANG  
VS  
TEXAS COMMISSION ON ENVIRONMENTAL QUALITY, ET AL  
RETURN

Came to my hand: 7/13/2017, at 09:00 o'clock A.M., the following specified documents:

- Citation
- Plaintiff's Original Petition and Request for Disclosure
- Jury Demand
- Civil Case Information Sheet

and executed by me on 7-13-17, at 11:26 o'clock, PM, at,  
12100 PARK 35 CIRCLE, AUSTIN, TX, within the county  
of TRAVIS, by delivering to KIM WILSON, DIRECTOR OF  
WATER AVAILABILITY,

☐ in person  
☒ by delivering to PATSY JUAREZ, Auth. Agent/Exec. Asst., a true  
copy of the above specified documents having first endorsed on such copy the  
date of delivery.

The above-named defendant/respondent indicated that he/she is not an active member of the armed forces of the  
United States of America

I am over the age of 18, not a party to nor interested in the outcome of the above numbered suit, and I  
declare under penalty of perjury that the foregoing is true and correct.

George Z. Castle

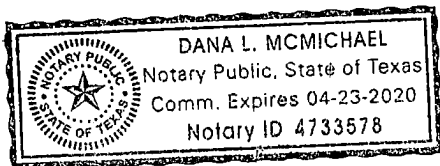
Authorized Person: Kelly Land SCH5912  
Expiration Date: 10/31/2018  
ASSURED CIVIL PROCESS AGENCY  
5926 Balcones Dr. Ste. 290, Austin, TX 78731

STATE OF TEXAS }

VERIFICATION

Before me, a notary public, on this day personally appeared the above named Authorized person, known  
to me to be the person whose name is subscribed to the foregoing document and, being by me first duly  
sworn, declared that the statements and facts therein contained are within his/her personal knowledge  
and experience to be true and correct. Given under my hand and seal of office on this the 14<sup>th</sup> day of

July, 2017



Dana L. McMichael  
Notary Public



**4.**

8/4/2017 9:57 AM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-17-003108  
Sandra Henriquez

CAUSE NO. D-1-GN-17-003108

SHYYAN JIANG,	§	IN THE 250 <sup>TH</sup> DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
v.	§	OF
	§	
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY; and	§	
KIM WILSON, individually and in her	§	
Capacities as Director of Water Availability,	§	
<i>Defendants.</i>	§	TRAVIS COUNTY, TEXAS

### **DEFENDANTS' ORIGINAL ANSWER AND DEFENSES**

Defendants Texas Commission on Environmental Quality and Kim Wilson, individually and in her capacity as Director of Water Availability (collectively, Defendants) respectfully file their Original Answer and Defenses to Plaintiff Shiyang Jiang's Original Petition.

#### **I. GENERAL DENIAL**

In accordance with Rule 192 of the Texas Rules of Civil Procedure, Defendants hereby generally deny each and every allegation set forth in Plaintiff's Original Petition, and demand strict proof thereof.

#### **II. DEFENSES**

Defendants assert the following defenses:

1. Defendants assert the affirmative defense of sovereign immunity, to the extent applicable.
2. Defendants assert the affirmative defense of official immunity, to the extent applicable.
3. Defendants assert the affirmative defense of immunity from liability, to the extent applicable.
4. Defendant Wilson asserts the affirmative defense of qualified immunity, to the extent applicable.
5. Defendants assert the affirmative defense of limitations, to the extent applicable.

6. Plaintiff fails to state claims upon which relief can be granted.
7. Plaintiff's claims, in whole or in part, are barred by Plaintiff's failure to exhaust his administrative remedies.
8. Any alleged actions taken against Plaintiff were based on neutral, non-discriminatory, non-retaliatory practices.
9. Adverse employment actions taken with regard to Plaintiff, if any, were based solely on information, observation, or evidence unrelated to his protected activities, if any, and would have been taken regardless of Plaintiff's protected activities, if any.
10. Defendants assert that they acted in good faith and without malice, willfulness, or intent.
11. Any challenged action, practice or policy taken against Plaintiff was taken for a legitimate business or governmental operations reason.
12. Plaintiff's damages are subject to the applicable cap on damages as required by law.
13. Plaintiff has failed to avoid or mitigate his damages as required by law.
14. Defendants reserve the right to assert additional affirmative defenses at a later date as such defenses become known to Defendants throughout the course of litigation.

### **III. PRAYER**

Defendants pray that Plaintiff take nothing by this suit, that all costs be taxed and adjudged against Plaintiff, and that Defendants be granted such other relief to which they may be justly entitled.

Respectfully submitted.

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

BRANTLEY STARR  
Deputy First Assistant Attorney General

JAMES DAVIS  
Deputy Attorney General for Civil Litigation

ANGELA V. COLMENERO  
Division Chief - General Litigation

/s/ Michael R. Abrams

MICHAEL R. ABRAMS  
Texas Bar No. 24087072  
Assistant Attorney General  
Office of the Attorney General  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Phone: 512-463-2120  
Fax: 512-320-0667  
Michael.Abrams@texasattorneygeneral.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that a true and correct copy of the foregoing document has been served through the Court's electronic filing system and via electronic mail on August 4, 2017:

Colin Walsh  
Robert J. Wiley  
ROB WILEY PC  
1011 San Jacinto Blvd, Ste 401  
Austin TX 78701  
[cwalsh@robwiley.com](mailto:cwalsh@robwiley.com)

/s/ Michael R. Abrams  
MICHAEL R. ABRAMS

**5.**

8/7/2017 9:05 AM

Velva L. Price  
District Clerk  
Travis County  
D-1-GN-17-003108  
Carlos Martin

CAUSE NO. D-1-GN-17-003108

SHYYAN JIANG,	§	IN THE 250 <sup>TH</sup> DISTRICT COURT
<i>Plaintiff,</i>	§	
	§	
v.	§	OF
	§	
TEXAS COMMISSION ON	§	
ENVIRONMENTAL QUALITY; and	§	
KIM WILSON, individually and in her	§	
Capacities as Director of Water Availability,	§	
<i>Defendants.</i>	§	TRAVIS COUNTY, TEXAS

**DEFENDANTS' NOTICE OF FILING OF REMOVAL**

TO: **Velva L. Price**, Travis County District Clerk, 1000 Guadalupe Street, Austin, Texas 78701

Pursuant to 28 U.S.C. § 1446(d), you are hereby given notice that Defendants Texas Commission on Environmental Quality and Kim Wilson, individually and in her capacity as Director of Water Availability, will file their Notice of Removal on August 8, 2017, in the United States District Court for the Western District of Texas, Austin Division, thereby removing this cause to federal court. This Court is respectfully requested to proceed no further in this action, unless and until such time as the action may be remanded by order of the United States District Court for the Western District of Texas.

Respectfully submitted.

KEN PAXTON  
Attorney General of Texas

JEFFREY C. MATEER  
First Assistant Attorney General

BRANTLEY STARR  
Deputy First Assistant Attorney General

JAMES DAVIS  
Deputy Attorney General for Civil Litigation

ANGELA V. COLMENERO  
Division Chief - General Litigation

/s/ Michael R. Abrams  
MICHAEL R. ABRAMS  
Texas Bar No. 24087072  
Assistant Attorney General  
Office of the Attorney General  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711-2548  
Phone: 512-463-2120  
Fax: 512-320-0667  
Michael.Abrams@texasattorneygeneral.gov

*Counsel for Defendants*

**CERTIFICATE OF SERVICE**

I certify that on August 7, 2017, a true and correct copy of the foregoing document was served through the Court's electronic filing system on:

Colin Walsh  
Robert J. Wiley  
ROB WILEY, PC  
1011 San Jacinto Blvd, Ste 401  
Austin TX 78701  
[cwalsh@robwiley.com](mailto:cwalsh@robwiley.com)

/s/ Michael R. Abrams  
MICHAEL R. ABRAMS



**6.**



(https://www.traviscountytx.gov)

**District Clerk - AARO - Attorney Access to Records Online****Details**

Updated : Tuesday, August 8, 2017 5:13:42 AM

<b>Cause Number</b>	D-1-GN-17-003108	<a href="#">Request Documents (/aaro/Content/record_search_fi</a>
<b>Style</b>	SHYYAN JIANG V TEXAS COMMISSIO	
<b>Filed Date</b>	7/7/2017	<a href="#">New Search (/aaro/)</a>
<b>Court</b>	250	
<b>Type</b>	EMPLOYMENT DISCRIM HARASS (GEN LIT)	
<b>Case Status</b>	PENDING	
<b>Action/Offense</b>		
<b>Hearing Date</b>		

<b>Attorney</b>	<b>Type</b>	<b>Party - Full/Business</b>	<b>Party - Person</b>
ABRAMS MICHAEL RAPHAEL	DEFENDANT	IN HER OFFICIAL CAPACITY KIM WILSON	
WILEY ROBERT JOSEPH	PLAINTIFF		JIANG , SHYYAN
ABRAMS MICHAEL RAPHAEL	DEFENDANT	TEXAS COMMISSION ON ENVIROMENTAL QUALITY	

<b>Date</b>	<b>Court</b>	<b>Party</b>	<b>Description</b>	<b>Category</b>	<b>Pages</b>	
8/7/2017	250		NTC:OTHER NOTICE	NOTICE	0	PDF not available
8/4/2017	250		ORIGINAL ANSWER	ANS-RESP	4	Download (/aaro/Default/GetPdf?barCodeId=5336167)
7/17/2017	250		EXECUTED SERVICE	SRVPROCESS	2	Download (/aaro/Default/GetPdf?barCodeId=5301176)
7/17/2017	250		EXECUTED SERVICE	SRVPROCESS	2	Download (/aaro/Default/GetPdf?barCodeId=5301170)
7/11/2017	250	DF	ISS:CITATION	ISSUANCE	0	PDF not available
7/11/2017	250	DF	ISS:CITATION	ISSUANCE	0	PDF not available
7/7/2017	250	PL	ORIGINAL PETITION/APPLICATION	PET-PL	13	Download (/aaro/Default/GetPdf?barCodeId=5288900)

[Request Documents \(/aaro/Content/record\\_search\\_fillable.pdf\)](#)[New Search \(/aaro/\)](#)